

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM)
10.55.907 relating to)
distance, online, and)
technology delivered)
learning)

TO: All Concerned Persons

1. On January 29, 2004, the Board of Public Education published MAR Notice No. 10-55-231 regarding the public hearing on the proposed amendment of a rule concerning distance, online, and technology delivered learning at page 157 of the 2004 Montana Administrative Register, Issue Number 2.

2. The Board of Public Education has amended ARM 10.55.907 with the following changes, stricken matter interlined, new matter underlined:

10.55.907 DISTANCE, ONLINE, AND TECHNOLOGY DELIVERED LEARNING (1) through (2)(a) remain as proposed.

(b) Distance, online, and technology delivered learning programs and/or courses shall meet ~~school-district-adopted~~ the learner expectations adopted by the school district or aligned with state content and performance standards.

(3) Except as provided in (3)(a), teachers of distance, online, and technology delivered learning programs shall be licensed and endorsed in the area of instruction with such license granted as a result of the completion of a professional educator preparation program accredited by NCATE and/or a state board of education. School districts receiving distance, online, and technology delivered learning programs described in this rule shall have a distance learning facilitator as provided in this rule assigned for each course and available to the students.

(a) remains as proposed.

(b) When a teacher of distance, online, and technology delivered learning programs is licensed and endorsed in the area of instruction, as provided in this rule, the receiving school district's facilitator ~~need not be licensed~~ shall be a licensed teacher or a para-educator.

(c) The school district must ensure that the distance, online, and technology delivered learning facilitator, whether licensed or not, the distance, online, and technology delivered learning facilitator shall receives in-service training on technology delivered instruction pertaining to:

(i) through (5)(a) remain as proposed.

(b) identify all Montana school districts to whom they are providing distance, online, and technology delivered programs and/or courses;

(b) through (d) remain as proposed but are renumbered (c) through (e).

3. The Board of Public Education has thoroughly considered the comments and testimony received on the proposed amendment of this rule. The following is a summary of the comments received and the Board's responses.

COMMENT 1: Linda Peterson, on behalf of the Office of Public Instruction (OPI), clarified that nothing in the proposed amendments to this rule expand or change the provision for calculating ANB.

RESPONSE: The Board concurs that this particular rule does not impact the current status of ANB money to school districts.

COMMENT 2: Linda Peterson further recommended that (2)(b) be changed to read, "Distance, online, and technology delivered learning programs and/or courses shall meet the learner expectations adopted by the school district or aligned with state content and performance standards."

RESPONSE: The Board concurs with the proposed amendment and considers it "housekeeping" in nature.

COMMENT 3: Linda Peterson further recommended that (3)(c) be amended to read, "The school district must ensure that the distance, online, and technology delivered learning facilitator, whether licensed or not, receive in-service training on technology delivered instruction pertaining to:" and that language be inserted to require providers to identify all Montana school districts to whom they are providing distance, online, and technology delivered programs and/or courses.

RESPONSE: The Board concurs with the proposed amendments.

COMMENT 4: Lance Melton, on behalf of the Montana School Boards' Association (MTSBA), and Dave Puyear, on behalf of the Montana Rural Education Association (MREA), proposed an amendment to the rule to provide that the on-site facilitator is at least qualified as a licensed teacher or para-educator.

RESPONSE: The Board agrees that the new language "may be a licensed teacher or a para-educator" makes the rule more clear as to who can legally serve as a facilitator. The rule has been amended accordingly.

COMMENT 5: Lance Melton, on behalf of MTSBA, testified in support of the amendments to the rule and commented that the education community needs to broaden the ability to deliver education and make it as flexible as possible and to consider home and private settings. He concurred that the ANB issue should be addressed at a later date. He felt the new wording ensures quality of education and that this type of education should receive the same level of scrutiny, not more. He also stated that

local control needs to be preserved and that teacher load requirements are important.

RESPONSE: The Board concurs and appreciates Mr. Melton's comments.

COMMENT 6: Dave Puyear, on behalf of the MREA, testified that MREA strongly supports the rule and amendments proposed by OPI, MTSBA and MEA-MFT. Mr. Puyear requested that the MREA be included in discussions regarding ANB.

RESPONSE: The Board concurs with and appreciates Mr. Puyear's comments.

COMMENT 7: David Smith, on behalf of MEA-MFT, testified in support of the rule amendments and stated that students need to be assured that they will have access to a licensed educator.

RESPONSE: The Board concurs with and appreciates Mr. Smith's comments.

COMMENT 8: Claudette Morton, on behalf of the Montana Small Schools Alliance, testified that all education partners involved should be invited to the table for discussion on issues affecting education in Montana. She also stated that she supported the amendments but had a concern with the language "may be a licensed teacher or a para-educator" and felt this was too permissive.

RESPONSE: Lance Melton and Dave Puyear clarified this language as being the two alternatives made available for a school district's facilitator. The Board concurs with and appreciates Ms. Morton's comments and has replaced the word "may" with "shall" to avoid confusion.

COMMENT 9: Bud Williams, Deputy Superintendent, Office of Public Instruction, testified in support of the proposed rule with the amendments offered at the hearing.

RESPONSE: The Board concurs with and appreciates Mr. Williams' comments.

COMMENT 10: Bruce Messinger, Superintendent of Helena Public Schools, testified in support of the proposed amendments and stated that he would be interested in encouraging greater flexibility in this rule to meet the needs of students. The rule provides an opportunity for "at risk" students to be given alternative settings. He would like to be included in the discussions regarding the ANB issue. He feels the rule is complementary to regionalized delivery of services, will encourage the further development of connectivity and greater development of technology in all schools.

RESPONSE: The Board concurs with and appreciates Superintendent Messinger's comments.

COMMENT 11: Geoff Feiss, on behalf of the Montana Telecommunications Association, testified that he was in general agreement with the concept of the rule but felt the rule erects barriers to distance learning by requiring distance learning programs to have both a licensed/endorsed teacher and facilitator assigned to each course. He recommended totally "scrapping" the rule and rewriting it as follows:

"School districts should utilize distance, online, and technology delivered learning programs without restriction as a resource for maximizing learning opportunities for Montana's students. School districts shall ensure that students utilizing distance, online, and technology delivered learning programs are held to the same educational achievement and assessment standards as other students in the school district."

RESPONSE: The board characterizes these comments as not being adverse to the intent of the rule but rather criticizes the rule as being too restrictive as to the quality requirements and adherence to the standards for providers and receivers. The Board wishes to thank Mr. Feiss but rejects the request to "scrap" the rule as amended but will continue to monitor the rule as it applies to rapidly developing technology.

COMMENT 12: Mary Sheehy-Moe, Dean of Montana State University - Great Falls College of Technology, testified that the Great Falls College of Technology was active in distance learning and dual enrollment. She stated that distance learning does require some facilitation at the K-12 level and stated that the focus needs to be on facilitation as a function rather than as a person. She supports the portion of the rule requiring training for people to become facilitators. She was concerned about the impact this rule would have on the Great Falls College of Technology's running start and dual enrollment coursework. She further indicated that the 1999 legislation entitled "Running Start" does not require faculty to be certified to teach high school juniors and seniors who are taking advantage of dual credit offerings.

RESPONSE: The Board appreciates the comments and thanks Ms. Sheehy-Moe.

COMMENT 13: Dick Kuntz, Assistant Superintendent of the Great Falls Public Schools, testified that he supports the rule with the caveat that the rule be amended to allow college professors to deliver distance courses. He stated that their school needs to continue to utilize dual enrollment from the Great Falls College of Technology to meet K-12 students' needs and that the partnership they have for dual enrollment is crucial for curriculum enrichment. He felt the rule was too restrictive with regards to licensure and endorsement.

RESPONSE: The Board appreciates the comments and thanks Mr. Kuntz.

COMMENT 14: Jerry Pauli, District Superintendent of the Thompson Falls School District submitted a written comment expressing concern regarding the process by which rules are promulgated. He suggested that the Office of Public Instruction show the specifics of how the rule will apply to the districts before the rule is adopted. It was his opinion that no rule should be approved by the Board of Public Education without seeing the specific guidelines prior to the adoption.

RESPONSE: The Board appreciates the comment and assures Superintendent Pauli that there are many checks and balances in place to assure that the implementation guidelines that are developed are consistent with the intent of the rule and the law.

/s/ Kirk Miller
Dr. Kirk Miller, Chair
Board of Public Education

/s/ Steve Meloy
Steve Meloy, Executive Secretary
Rule Reviewer
Board of Public Education

Certified to the Secretary of State March 29, 2004.